

RHODE ISLAND DISTRICT, &c.

At a circuit court of the United States, begun and holden at Providence, within and for the Rhode Island district, on the fifteenth day of November, in the year of our Lord one thousand eight hundred and forty-nine.

Presently the honorable Levi Woodbury, associate justice Supreme Court United States.

The honorable John Pitman, United States district judge, for Rhode Island district.

James M. Clarke, esq., United States district attorney, for Rhode Island district.

George W. Jackson, esq., U. S. marshal, for Rhode Island district.
John T. Pitman, clerk.

In the record of the proceedings of the said court, among others, are the following, to wit:

Bill in equity.

JAMES STEVENS

vs.

GLADDING & PROUD,

Be it remembered, that on the first day of July, A. D. 1847, of the circuit court of the United States, for the Rhode Island district, the following bill was filed:

CIRCUIT COURT, RHODE ISLAND DISTRICT.

In chancery.

To the judges of the circuit court of the United States, for the district of Rhode Island.

James Stevens, of the town and county of Newport, State of Rhode Island, &c., and a citizen of the State of Rhode Island, &c., being this his bill against Royal Gladding and Isaac H. Proud, booksellers and stationers under the firm of Gladding & Proud, successors of Isaac H. Cady, of the city and county of Providence, in the State of Rhode Island, &c., both citizens of the State of Rhode Island, &c., and, thereupon, your orator complains and says:

"That, according to an act of Congress of the United States, entitled 'An act to amend the several acts respecting copyrights,' passed on the third day of February, A. D. one thousand eight hundred and thirty-one, your orator obtained the sole and exclusive copyright for twenty-eight years, for printing, publishing, and selling, to the sole exclusive benefit, 'a Topographical Map of the State of Rhode Island and Providence Plantations,' the original certificate of said [Rec. CLVII, L. T., 1853.]

copyright is hereunto annexed, and is prayed to be taken as part of this bill.

And that your orator has fulfilled all the requirements of said Act of Congress, and every other duty and thing on his part, to complete the copyright thereto.

Your orator further states, that he has never at any time given consent or permission to any person or persons whatever, to print, publish, and sell, any copy or copies of said map of the State of Rhode Island and Providence Plantations; but, on the contrary, your orator always has been, and still continues to be, the sole proprietor of the map aforesaid; and that he always has printed, published, and sold, and still continues to print, publish, and sell, the map aforesaid.

And your orator further states, that having great reason to believe and expect that the sales of the copyright map aforesaid would be and is extensive, and profitable, and that, under the provisions and protection of the act of Congress above named, your orator should continue to print, publish, and sell the map aforesaid, and to enjoy the sole benefit, profit, and advantage arising therefrom, without his copyright thereto being violated or infringed, or having any interference or disturbance therein, by any person or persons whatever, as in justice and equity ought to have been the case:

But now, so it is, that said Royal Gladding and Isaac T. Prout, of the city and county of Providence, in Rhode Island district, citizens of the state of Rhode Island, &c., booksellers and stationers, their servants, workmen, agents, and others, combining and confederating together, and with divers other persons at present unknown to your orator, and contriving how to wrong and injure your orator, by depriving him of the gains and profits which he was and is entitled to have and receive from the sole and exclusive privilege of printing, publishing, and selling of said topographical map of the State of Rhode Island and Providence Plantations, the said Royal Gladding and Isaac T. Prout, their servants, workmen, agents, and others, have, within the year last past, printed, published, and sold, and still do continue to print, publish, sell, and expose to sale, a certain other topographical map of the State of Rhode Island and Providence Plantations, of the same size, the same lettering, the same topographical character, and the same general appearance in the title and in the body of the main design, as the true copyright map of your orator, excepting the addition of the names of some few and unimportant private places, the insertion of parts of two or three railroads, now built, or contemplated, and some minor changes, and many other wrongs and injuries have been in and about the premises, to the great damage and loss of your orator.

And your orator further states, that the copperplate engraving, from which his genuine copyright map was printed or impressed, has been for some time past wholly discarded and laid aside by him from any use hereafter, it being his intention and determination to have the topographical map aforesaid etched and engraved on steel plates, for the

Wm. C. Green, Esq.,
Attala Co., Tenn.

purpose of producing a more distinct appearance of the whole work, and for correcting any defect therein, and for inserting all the late improvements, railroads, factories, mills, and churches thereto.

That your orator has good reason to suspect and believe, that said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, have obtained the same identical discolored copperplate engraving, by some means to your orator wholly unknown, and have either used the same copperplate, or a similar one, for the purpose of printing therefrom their spurious, illegitimate, and pirated edition of the topographical map aforesaid; and that they have either printed and published, or have caused to be printed and published, at their own expense, the spurious, illegitimate, and pirated edition of the map aforesaid, in order to sell and dispose of the same at an undervalue or cheap price than that sold by your orator for their own benefit, thereby depriving your orator of the sole benefit and advantage of his copyright in and to said map; that a copy of said spurious, illegitimate, and pirated map has been purchased at the store of the said Royal Gladding and Isaac T. Proud, in the city of Providence, Rhode Island, for the sum of two dollars.

And your orator charges, that the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, have sold and disposed of two thousand, or a great number of copies or impressions of the spurious, illegitimate, and pirated map aforesaid, and will continue to expose to sale the same, to the great damage and injury of your orator all which actings and doings are contrary to equity and good conscience, and tend to the manifest wrong and disadvantage of your orator in the premises.

To the end, therefore, that the defendants may, if they can, show why your orator should not have the relief hereby prayed; and may upon their several and respective coronal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answers make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written they are respectfully required to answer, that is to say:

1. Whether any, and if any, what number of copies of the map above named you or your servants, workmen, agents, or others, have printed and published, or caused to be printed and published, by you or their order, or by either of their orders, for your and their, or either of their use and benefit?

2. Whether any, and if any, how many, and what number of copies of the map above named, have been sold or disposed of by you or by others for you, for your or their benefit, or either of their benefit, and for what price or prices said maps have been sold for and continue to be sold for?

3. Whether any, and if any, what number of copies of the map above named remain unsold, and in whose hands or possession said maps, or any of them, remain?

What maps printed, the maps above named, who where, and at what time were they printed, by whom were said maps colored, by whom engraved, and at what price or price?

What maps he engraved the copper-plate from which the above named map was printed, and at what cost or price, in whole or in part?

Who printed on the copper-plate, or otherwise, the railroads and other alterations and additions to the map above named, and at what cost or expense?

In whose hands or possession is the copper-plate on which you, or some other person or persons for you, have engraved the map above named?

Who were, and who now are your servants, workmen, agents, and others, who assisted you in printing, publishing, selling, and exposing to sale all or any of the above named maps, for your or their use or benefit or for either of their use or benefit, and who confederated with you and others, or with you alone, for the purpose of printing, publishing, vending, or exposing to sale for your or their profit, use, and benefit the map above named?

And that the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, his confederates, may be respectively restrained, by order and injunction of this honorable court, from the future printing, publishing, selling, or exposing to sale, by themselves, their servants, or agents, the said map of the State of Rhode Island and Providence Plantations, or in any way being concerned in the printing, publishing, selling, or exposing to sale any copy or copies of said map, or of any other map or maps purporting to be, or resembling the map printed, published, and sold by your orator.

And that the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, his confederates, may be decreed (according to the act of Congress herein above named) to deliver unto your orator "the plate or plates" on which he or they have printed or caused to be printed the spurious, illegitimate, and pirated maps of the State of Rhode Island and Providence Plantations, and also to deliver unto your orator "all and every sheet thereof so copied or printed," and that they be also decreed to pay into the hands of your orator the sum of "one dollar for every sheet of said map which they have printed or caused to be printed or published or exposed to sale, one moiety thereof to your orator, and the other moiety to the use of the United States."

Will it please this honorable court to grant unto your orator a writ of habeas corpus to be directed to the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, hereby commanding them and them, at a certain day, and under certain pains therein to be named, personally to be and appear before this honorable court, and then and there full, true, direct, and perfect answers make to all and singular the premises; and further to stand to, perform, and abide the further order, direction, and decree therein, as to this honorable court shall seem meet, and that your orator may have such other relief in the

memories of the nature and circumstances of the case may witness to
to the honorable court may deem meet, and your attorney shall be
present.

Noting.—The defendant is required to answer the interrogatories
numbered 1, 2, 3, 4, 5, 6, 7, 8, herein above inserted.

JAMES STEVENS.

RHODE ISLAND DISTRICT, sc.

Clerk's office, circuit court, at Providence, July 1st, 1847.

Then personally came James Stevens, subscriber to the foregoing
bill, and made solemn oath, that the facts and statements therein con-
tained were true and correct, according to the best of his knowledge
and belief.

Before me,

JOHN T. PITMAN, Clerk.

Fees, 25 cents—paid by James Stevens.

"District of Rhode Island, to wit.

"Be it remembered, that on the twenty-third day of April, anno
Domini one thousand eight hundred and thirty-one, James Stevens, of
the said district, hath deposited in this office the title of a map, the title
of which is in the words following:

"A Topographical Map of the State of Rhode Island and Provi-
dence Plantations, surveyed, trigonometrically and in detail, by James
Stevens, topographer and civil engineer, Newport, Rhode Island, 1831,
the right whereof he claims as author, in conformity with an act of
Congress, entitled 'An act to amend the several acts respecting copy-
right.'

(Signed)

BENJAMIN COVELL, [i. e.]

"Clerk of the Rhode Island district."

Subpoena.

RHODE ISLAND DISTRICT, sc.

The President of the United States of America, to Royal Cladding and
Isaac T. Proud, of the city and county of Providence, in the
[i. e.] State of Rhode Island, booksellers and stationers, doing busi-
ness under the firm of Cladding & Proud, both citizens of the
State of Rhode Island, &c., greeting:

For certain causes offered to our circuit court, for the first circuit,
within and for the Rhode Island district—in chancery—

We hereby command and strictly enjoin you, and each of you, after
laying aside all other matters and things and notwithstanding any
excuse, you, and each of you, personally appear at the office of this
said court, in Providence, on Monday the third day of August, 1847,
being the forty-seventh year of said court, and then and there, fully, fully,

Be it known unto you several corporal justice to the bill of complaint of James Stevens, of the town and county of Newport, State of Rhode Island, &c., and a citizen of the State of Rhode Island, &c., filed at record in the clerk's office of said court, and to do and render whatever our said court shall order against you in the premises in this behalf, and hereof fail not, under the pains and penalties that may accrue in consequence of neglect thereof.

And the marshal of said Rhode Island district, or his deputy, is hereby commanded to make service of this writ by serving the same to the defendants and Isaac T., or by leaving a true and attested copy hereof at their several last and usual places of abode, twenty days before the day aforesaid.

Witness the honorable Roger B. Taney, our chief justice, at Providence, this second day of July, A. D. 1847.

JOHN T. PITMAN, Clerk.

Also.—The appearance of the respondent in the suit is to be entered in the clerk's office on or before the return day of this writ, otherwise the bill may be taken pro confesso us against those not appearing.

THE UNITED STATES OF AMERICA,
Rhode Island district, &c.

PROVIDENCE, July 2d, 1847.

Made service of the within subpoena by delivering in hand of the witness named Gledding & Proud a true copy hereof,

B. ANTHONY,

U. S. marshal, R. I. district.

Fees—service	- - -	\$4 00
Copies	- - -	1 00
Travel	- - -	10
		<hr/>
		\$5 10

And on the second day of said July, a petition for injunction was filed, as follows, viz:

Petition for injunction.

RHOADE ISLAND DISTRICT.

To the judge of the district court of the United States, for the Rhode Island district.

Whereas your petitioner, James Stevens, of the town and county of Newport, in the State of Rhode Island, &c., a citizen of the State of Rhode Island, &c., hath brought his bill in chancery, in the circuit court of the United States, in the Rhode Island district, against Royal Gledding and Isaac T. Proud, of the city and county of Providence, in

the State of Rhode Island, booksellers and stationers, doing business under the firm of Gladding & Proud, both citizens of the State of Rhode Island, of which bill he has availed himself of injunction to restrain the infringement of a copyright granted to your petitioner under an act of Congress of the United States entitled "An act to amend the several acts respecting copyrights," approved the third day of February, anno Domini 1831, "for the sole right and liberty, as author and proprietor, to print, publish, and sell, for his own exclusive profit, benefit, and advantage, a topographical map of the State of Rhode Island and Providence Plantations, for the term of twenty-eight years; in which bill in chancery, your petitioner had prayed the court aforesaid, that the said Royal Gladding and Isaac T. Proud, their servants, workmen, agents, and others, may be restrained by the order and injunction of said court, from the further printing, publishing, selling, or exposing to sale, the said topographical map of the State of Rhode Island and Providence Plantations, or in any way being concerned in the printing, publishing, selling, or exposing to sale, any copy or copies of said map, or of any other map or maps purporting to be, or resembling the map printed, published, and sold by your petitioner.

And, notwithstanding as your petitioner has not had reasonable time to apply to the circuit court of the United States for the writ of injunction, according to the act of Congress of the 13th of February, 1807, he therefore hereby petitions this honorable court to grant unto him the order of injunction prayed for in his said bill.

JAMES STEVENS.

Notice on petition.

RHODE ISLAND DISTRICT, &c.

To Royal Gladding and Isaac T. Proud, of the city and county of Providence, in the State of Rhode Island, booksellers and [i. s.] stationers, doing business under the firm of Gladding & Proud, greeting:

Whereas James Stevens, of the town and county of Newport, in said State of Rhode Island, has filed in the circuit court of the United States within and for the Rhode Island district, a bill in equity against you, relative to a certain copyright granted to said Stevens, under an act of Congress of the United States, and which is more fully set forth on said bill;

And has also filed before our district judge for said district, the day preceding his reasonable time to apply to said circuit court, a bill in equity wherein he sets forth and prays that you, your servants, workmen, agents, and others, may be restrained from further printing, publishing, selling, or exposing to sale, the topographical map of the State of Rhode Island and Providence Plantations, or maps resembling the same, which be the sole copyright for,

You are, therefore, hereby advised, that our said judge will hear

In the circuit court of the district court-house in Providence, on Tuesday, the third day of July instant, at 11 o'clock, A.M., at which place and time you are required to appear, if you have any objection to the pending
said petition.

Dated at Providence, this second day of July, A.D. 1847.

JOHN T. PITTMAN,

Clerk of district court for Rhode Island district.

UNITED STATES OF AMERICA,

Rhode Island district, sc.

July 23, 1847. Made service of the within munition by delivering
in hand of the within named Gladding & Proud a true copy hereof.
R. ANTHONY, United States marshal.

Rates - - - \$4 00.

Copies - - - 1 00.

Affidavit of Royal P. Gladding.

RHODE ISLAND DISTRICT, sc.

Circuit court of the United States, for Rhode Island district.

November 7, 1847.—In equity.

In the matter of the injunction in case

JAMES STEVENS

vs.

GLADDING & PROUD. }

Royal P. Gladding, of Providence, of the firm of Gladding & Proud, booksellers, &c., maketh oath and saith, that the bookstore price of the super edition of Stevens' map of Rhode Island, as sold under said Stevens' direction, was three dollars per copy, and that this edition did not exceed a thousand copies, as this affiant has been informed and believes; the sale consumed a period of nearly sixteen years, from 1830 to 1846; that the last eighteen months the booksellers' price of the new and improved edition of said map, published by Isaac H. Cady, has been two dollars per copy, and that said map cannot be profitably sold at a greater price, that the price of three dollars would be very high in comparison with the price of other maps, and that the price of two dollars would be full as high as it should be, in comparison with the price of other maps; that the season of sale of this and other maps has now come on, the public and other schools now supplying themselves for the winter, and that the loss of this season of sale would be greatly detrimental to whomsoever is interested in the profits of the sale of this map; that said map is frequently called for, and that in consequence of said injunction, your affiant has been obliged to refuse many applications for purchase.

ROYAL P. GLADDING.

Providence, November 24, 1847.

RHODE ISLAND DISTRICT, &c.

In Providence, this twenty-fourth day of November, A. D. 1847,
subscribed and sworn to by Royal P. Gradding.

Before me,

HENRY MARTIN,

Public Notary.

Affidavit of Charles Burnett, Jr.

RHODE ISLAND DISTRICT, &c.

Circuit court of the United States, within and for the Rhode Island
district, November 7, 1847.

In equity.

In the matter of the injunction in the case

JAMES STEVENS

vs.

GRADING & PROUD,

Charles Burnett, Jr., of Providence, bookseller, maketh oath and saith, that, as he believes, the first edition of Stevens' map of Rhode Island was sold at the price of three dollars per copy, as the usual
bookseller price; that the retail price of Cindy's edition of said map has been two dollars per copy, ever since the same was published, the amount having sold said map at that price as the usual price of the same; that the price of three dollars per copy, for said map, would be fair, in his
comparison with the prices of other maps; and that, in his opinion, two
dollars per copy would be a fair retail price for the same; that the pre-
sent injunction against the sale of said maps is greatly detrimental to
the interests of those who may be concerned in the profit of the sale of the
same, as said map will, if the sale is long delayed, be out of date; that
the season for the sale of this and other maps has now come on, and
said map is much inquired for, and the loss of it must prove injurious
to all concerned in said maps.

CHARLES BURNETT,

RHODE ISLAND DISTRICT, &c.

In Providence, this twenty-fourth day of November, A. D. 1847,
subscribed and sworn to by Charles Burnett, Jr.

Before me,

HENRY MARTIN,

Public Notary.

At chambers, July 6th, 1847.

On motion of plaintiff for an injunction, due notice thereof having
been given to the defendants, upon a hearing thereof, ordered by the
court of parties, that the injunction prayed for in the within cause
be granted, and the same is granted until the further order of the
court.

JOHN S. HUMPHREY,

CLERK OF COURT.

Stevens vs. Gladding & Proud.

And on the sixth day of October, 1847, the following answer was filed:

Answer of Gladding & Proud.

Circuit court for the Rhode Island district.

In equity.

JAMES STEVENS

vs.

KOVAL GLADDING & ISAAC T. PROUD,

The answer of said Koval Gladding and Isaac T. Proud to said bill, or so much thereof as they are advised it is material or necessary for them to make answer unto, saving to themselves all exceptions to said bill for or on account of any informalities or insufficiencies therein, answering, they say, that in receiving and selling of the maps referred to in said bill, these defendants received the same and sold the same as the agents of Isaac H. Cady, and under his right and authority to receive and sell the same, and not otherwise.

And these defendants further answering say, that they have been informed and believe, that said Isaac H. Cady has, and had good right to make, print, and sell all the maps referred to in said bill, and delivered to and sold by these defendants; and so state and charge the fact to be, that these defendants have been informed and believe, and so charge, the fact to be, that Sarah Stevens, of Fall River in the State of Massachusetts, on or about the 11th day of April, 1846, having recovered a judgment against said James Stevens, for one hundred and seventy-six dollars damages, and eighteen dollars and twenty-three cents costs of suit, before the court of common pleas, holder at Taunton, within and for the county of Bristol, in said State of Massachusetts, on the second Monday of March, 1846, which court had jurisdiction of said cause, took out from said court a writ of execution duly issued by said court, under the seal thereof, and signed by the clerk thereof, and dated the 11th day of April, 1846, all in due form of law, as will appear by the records and files of said court, exemplified copies of which are ready in court to be produced, as the court may direct, commanding the sheriff of the county of Bristol aforesaid, that of the goods and chattels and lands of the said James Stevens, within said county, he should cause to be paid and satisfied unto said Sarah Stevens, at the value thereof in money, the sum of one hundred and ninety-four dollars and twenty-three cents in the whole, and twenty-five cents more for said writ of execution, and thereof also to satisfy himself his fees in the premises, and for want of such goods, chattels, or lands of the said James Stevens, by him shown or found within his jurisdiction, to the acceptance of the said Sarah Stevens, the sheriff was commanded to and by said writ to take the body of said James Stevens, and him commit to the jail in Taunton or New Bedford, in the county of Bristol, and him detain in custody within said jail, until

He should pay the sums above mentioned, with the face thereon, or be lawfully discharged by said Sarah Stevens, or by order of court; and that said sheriff should make due return of said writ with his doings thereon, all which will more fully appear by the records and files of said court of common pleas, exemplified copies of which are ready to court to be produced, as this court may direct.

And these defendants further answering say, that said James Stevens neglected to pay said debt and satisfy said execution, but left at Fall river aforesaid, within the precincts of said sheriff, to whom said execution was delivered for collection, said copperplate named in said bill, with said map engraved thereon, to be levied upon and sold to satisfy, from the sale thereof, said execution, and made no other provisions for the satisfaction and payment of the same; and said sheriff at said Fall river, on or about the 25th day of April, 1846, levied said execution upon said copperplate with said map engraved thereon, and duly posted and advertised the same for sale to satisfy said execution; and after the expiration of more than four days after said levy, and after giving said James Stevens full opportunity to pay and satisfy said execution, and save said property from being sold, if he had chosen so to do, said sheriff on or about the 6th of May, 1846, at Fall river aforesaid, sold at public auction said copperplate, with said map engraved thereon, to the said Isaac H. Cady, for the sum of two hundred and forty-five dollars, that being the full value thereof with said map engraved thereon, said he being highest bidder for said property; and on the 9th day of said May, said Cady paid said sheriff said sum of two hundred and forty-five dollars, for which he had bid off said property and took his receipt therefor, and received said copperplate with said map engraved thereon from said sheriff as his property, and ever since said Cady hath had said copperplate hath been owned and possessed by him, hath used the same to print maps therefrom, and hath printed all the maps he hath printed, made, or sold from said plate, and used no other plate for printing said maps. And that all the maps which these defendants have ever received or sold from said Cady, or any one else, were printed with the knowledge and legal assent of said James Stevens given as aforesaid.

And these defendants further answering say, that with the money received from said Cady in payment of said plate and said engraving thereon, said sheriff paid said debt and satisfied said execution, and said James Stevens became thereby discharged therefrom, and after paying and satisfying said execution, said sheriff returned to said Stevens the balance over and above paying the same amounting to about sixty-two dollars, which said Stevens accepted, as these defendants have been informed and believe.

And these defendants further answering say, that said copperplate without said map engraved thereon would have been of small value, as these defendants believe, not over ten or fifteen dollars, and that the principal value of said copperplate, so as aforesaid purchased by said

ANSWER TO COMPLAINT FOR DAMAGES.

That they arose from the engraving thereon, as said James Stevens avails himself, and that the value of said plate, with said map engraved thereon, has been applied in payment of said James Stevens's debt, except such portion thereof as he received from said sheriff after said sale.

And these defendants most respectfully submit to this honorable court, that said Isaac H. Cady, by his aforesaid purchase of said copper-plate, with said map aforesaid thereon, in such manner aforesaid, acquired a right to use the same for printing maps of said State of Rhode Island, in manner aforesaid, and had good right to employ these defendants to sell the same.

And these defendants aver, that all the maps they have received for sale, or sold, were received from said Isaac H. Cady, and were sold under his right to make, print, and sell the same.

And these defendants submit to this honorable court, that by reason of the facts aforesaid, and the purchase of said plate and said map engraved thereon, these defendants became possessed of the right to print and publish said maps of the State of Rhode Island and sell the same, and that said Stevens hath virtually, implicitly, and legally assented thereto. And as to any fraud or conspiracy charged in said bill, these defendants say the same is not true; and these defendants submit to this honorable court, that they are not bound to make any other or further answer to said bill, and pray to be dismissed hence with their costs in this behalf expended.

ROYAL P. GLADDING,
ISAAC T. PROUD,
TILLINGHAST & BRADLEY,
Solicitors for respondents.

RHODE ISLAND DISTRICT, SC.

Clerk's office, circuit court, at Providence, October 6th, 1847.

Then personally appeared the subscribers to the foregoing answer, and severally made oath that the facts and statements therein contained were true and correct, according to the best of their knowledge and belief.

Before me,

JOHN T. PITMAN, *Clark.*

And on the 6th day of November next, the complainant replied as follows:

Replication.

United States circuit court, Rhode Island district.

In equity

The replication of James Stevens, complainant, to the answer of Royal Gladding and Isaac T. Proud.

This repliant saving and reserving to himself all and all manner of admissions of exception to the manifold insufficiencies of the said answer, and replication thereto, saith, that he will ever and prove his

Established to be true, certain, and sufficient in law to be answered, and
that the said answer of said defendant is uncertain, untrue, and
insufficient in law to be replied unto by the plaintiff. Without and
that any other matter or thing whatever in the said answer contained,
material or effectual in the law to be replied unto, confessed, and
averted, traversed, or denied, is true. All which matters and things
this repliant is and will be ready to aver, maintain, and prove, in the
honorable court shall direct, and humbly prays, as in and by his said
bill he hath already prayed.

JAMES STEVENS.

And at the November term, 1847, the following order was entered:

"Injunction so modified, as to allow defendants to sell maps upon
giving bond not to sell them for less than \$2 50, and to pay the money
into court, to abide the result of the suit."

At the June term, 1848, on motion of complainant, by agreement the
foregoing replication was withdrawn, and the following exceptions to
the answer were put in:

Exceptions.

CIRCUIT COURT OF THE UNITED STATES
Rhode Island district.

In equity

Between James Stevens, complainant, and Royal Giadding and Jason
T. Proud, defendants.

An exception taken by said complainant to the insufficient answer of
said defendants: For the said defendants have not, to the best and truest
knowledge, remembrance, information, and belief, full, true,
direct, and perfect answer made to the several interrogatories
hereinafter numbered and set forth from 1 to 8, inclusive, as by the
note in the bill of this complainant they are required to answer, that
is to say:

1. Whether any, and if any, what number of copies of the map
above named, you or your servants, workmen, agents, or others, have
printed, or caused to be printed, by your or their order, or by either of
their orders, for your, their, or either of their use or benefit?

2. Whether any, and if any, what number of copies of the map
above named have been sold or disposed of by you, or by either of
you, for your own benefit, their, or either of their benefit, and to
what price or prices said maps have been sold, or continue to be
sold for?

3. Whether any, and if any, what number of copies of the map
named remain unsold, and in whose hands or possession said
maps, do you claim, are remaining?

4. Who printed the map above named, and where, and at what

4. When were they printed; by whom were said maps colored; by whom are they filled up ready for sale; and at what price or prices?

5. Who engraved the copperplate from which the above named maps are printed; and at what cost or prices, in whole or in part?

6. Who drafted on the copperplate or otherwise the railroads and other alterations and additions to the map above named, and at what cost or expense?

7. In whose hands or possession is the copperplate on which you, or some other person or persons for you, have engraved the map above named?

8. Who were, and now are your servants, workmen, agents, and others, who assisted you in printing, publishing, selling, and exposing to sale, all or any of the above named maps, for your or their use or benefit, or for either of their use or benefit; and who confederated with you and others, or with you alone, for the purpose of printing, publishing, vending, or exposing to sale, for your or their profit, use, and benefit, the map above named?

In all which particulars, the said complainant excepts to the answer of the said defendants as evasive, imperfect, and insufficient; and humbly prays that the said defendants may be compelled to put in full and sufficient answers thereto.

JAMES STEVENS, Complainant.

And it was further ordered at the same term, that the respondents have leave to sell maps, upon giving bond in a sum to the satisfaction of the clerk that the proceeds of the sale abide the result of the suit.

And a bond was afterwards given in the words following, to wit:

Bond.

Know all men by these presents, that we, Royal Gladding and Isaac Proud, of the city and county of Providence, in the State of Rhode Island, booksellers and stationers, doing business under the firm of Gladding & Proud, as principal, and Shubael Hutchins, of said city, county, and State aforesaid, as surely are held and firmly bound unto James Stevens, of the town and county of Newport, in said State of Rhode Island, in the sum of three thousand dollars, to be paid to said Stevens, his executors, administrators, and assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Signed with our seals, and dated this twenty-fourth day of August, A.D., one thousand eight hundred and forty-eight.

The condition of the above obligation is such, that whereas the said Stevens is now presenting before the circuit court of the United States, for the first circuit and for the Rhode Island district, a bill in equity against the said Gladding & Proud, for malices growing out of the printing and publishing a map of the State of Rhode Island and Providence Plantations, by said Gladding & Proud, the copyright of said

map being claimed by said Stevens, and an injunction having been issued before upon the said Gladding & Proud against publishing, selling, &c., the said map, is now by agreement of the parties and order of court so modified, that the said Gladding & Proud "have leave to sell said map upon giving bond, in a sum to the satisfaction of the clerk, that the proceeds of the sale abide the result of the suit."

Now, therefore, if the said Gladding & Proud shall well and truly account for the entire proceeds of the sales made by them of the map aforesaid, and pay over the whole or such part of said proceeds as may be decreed by the decree of said circuit court, or an appeal by the opposite court, be decreed to pay, then the before written obligations shall be void and of no effect, otherwise shall remain in full force and effect.

ROYAL GLADDING. [S. A.]

ISAAC PROUD. [S. A.]

SHUBAEL HUTCHINS. [S. A.]

Signed, sealed, and delivered in presence of—(the words "made by them," on the 2d page, being here interlined)—

L. B. DUANE.

Witness to signature of Shubael Hutchins—

EDWARD A. GREENE.

Approved,

JOHN T. PITMAN, Esq.

At the following rule day in October, 1848, the following orders were entered:

Rule day, October, 1848.

Walter S. Burges, esq., who has heretofore been solicitor of record in the above cases, having moved at the June term, 1848, to have his name stricken from said cases on the docket, it is now ordered that his name be taken off as of that term.

The respondents move in both said cases for security for costs. It is ordered that security be given in the sum of \$200, to the satisfaction of the district clerk within twenty days.

Exceptions overruled without costs, and replication ordered to be filed in fifteen days, otherwise causes to stand on bill and answer.

In accordance with the foregoing order, the security required was given as follows:

Bond for costs.

Know all men by these presents, that we, James Stevens, of Newport, in the Rhode Island district, as principal, and Jonathan T. Pitman, of the esche New York merchant service, are held and shall remain bound unto Royal Gladding and Isaac T. Proud, doing business under the firm of Gladding & Proud, booksellers, of the city and state of Providence, as said distric, in the full and just sum of two hundred dollars.

and to the payment of which sum to the said Cladding & Proulx, their executors and administrators, we hereby bind ourselves, our executors and administrators by these presents,

The condition of the above obligation is such, that whereas James Stevens, of Newport, in said district, has commenced a suit by bill in equity, and which is now pending in the circuit court of the United States for said Rhode Island district, against the said Cladding & Proulx, and the said court has ordered that the said James Stevens shall give to the said Cladding & Proulx attorney for costs in said suit, now, if the said Stevens, as principal, and Jonathan T. Almy, as surety, shall well and truly pay, or cause to be paid, all costs which the said James Stevens shall by any decree or order of said court be adjudged to pay in said suit, then this obligation to be void, otherwise to remain in full force.

Sealed with our seals, and dated this eleventh day of October, 1848.

JAMES STEVENS. [SEAL.]
JONATHAN T. ALMY. [SEAL.]

Witness—E. Trevett,
John Stevens.

And at the same term, a motion was made by the complainant for a rehearing, which was afterwards withdrawn, and leave given to amend bill in sixty days, and also to amend answer, if necessary.

And afterwards, at the same term, on motion of respondent, it was ordered, that the complainant, he not having amended his bill as above allowed, file his replication in thirty days, in default whereof the cause to be set down for hearing at the June term on bill and answer.

And at the April rule day, 1849, the complainant filed in court the following petition for a commission to take testimony:

Petition for commission.

To the honorable circuit court of the United States, for the Rhode Island district.

The complainant in this bill pray a commission to issue to take testimony, and proposes that the testimony be taken upon oral interrogatories, by the parties or their agents, without filing any written interrogatories.

JAMES STEVENS, for himself.

To JOHN T. PITMAN, esq.,
Clerk circuit court, Rhode Island district.

Which was not acted upon, because no replication had been filed within the time specified. On the 21st of said April the following replication was filed:

Copies sent.

UNITED STATES CIRCUIT COURT,

Rhode Island district,

JAMES STEVENS }
vs. { In equity.
GLADDING & PROUD.)

The replication of James Stevens, complainant, to the answer of Royal Gladding and Isaac T. Proud. This repliant saving and reserving to himself all and all manner of advantage or exception to the manifold insufficiencies of the said answer, for replication hereunto saith, that he will ever and prove his said bill to be true, certain, and sufficient in law to be answered unto, and that the said answer of said defendants is uncertain, untrue, and insufficient in law to be replied unto by this repliant; without this, that any other matter or thing whatever, in the said answer contained, material or effectual in the law to be replied unto, confessed, and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays so in end by his said bill he hath already prayed.

JAMES STEVENS, Complainant.

And another petition for a commission to take testimony was filed April 25th, as follows:

In bills: JAMES STEVENS }
vs. {
ISAAC H. CADY, }
Ann same }
vs.
Gladding & Proud.)

When on the rule day in October last, bonds were required of me, it was inquired how many depositions would probably be taken; my answer was, "not exceeding three or four;" then the bonds were ordered to be given for two hundred dollars. I inferred from this, that I could take testimony at any time when the commission should issue, and in consequence of my exceptions being overruled, most of the objections which were filed before, and which were, and still are, filed with the papers in these bills, would vanish. In fact, I left those representations among the papers with the bills, for the purpose of their being ready filed in court, to be used when required. At the November term of this court, I applied for and obtained permission to extend my bill, and it was so have been done in sixty days, or up to the 1st of April and answer.

At the expiration of the sixty days I was sensible with sickness, and remained in bed 100 days, and am still too unwell to leave my room.

[Recd. clvii, D. T., 1853.]—3

applied on the 30th March to the circuit court for commissions to issue to take testimony, and sent my application to the clerk of this court on that day, and requested the clerk to enter on the order book of the complainant in this, "James Stevens vs. Isaac T. Cady, Plaintiff, Gladding & Proud, defendants for commissions to issue to take testimony in said cause." Rule day, April, 1849. The commission may be joint. This complainant now prays this honorable court that he may now file his replication, as those already filed have been considered not in proper time, and that the objections of these respondents' counsel to filing these replications be overruled, and that the commissions issue.

JAMES STEVENS.

Rule day, May, 1849.

And at the rule day in June following, the respondents assented to the issuing of the commission under the following terms:

Agreement of respondents.

We agree that a commission may issue to take the testimony of witnesses on interrogatories in the cases, Stevens vs. Cady, and Stevens vs. Gladding & Proud, on condition that the cause shall be tried at the next term of the circuit court. If the respondents claim a trial, and that reasonable notice and accommodation be extended to respondents and counsel in taking the testimony.

TILLINGHAST & BRADLEY,

For respondents.

Providence, June 5th, 1849.

Whereupon, the following commission issued:

Commission.

[U. S.] UNITED STATES OF AMERICA,
Rhode Island district, sc.

Circuit court of the United States, within and for the Rhode Island district.

To Joseph S. PITMAN,
Of Providence, in said district.

I know ye, that reposing confidence in your wisdom, prudence, and fidelity, we have appointed, and by these presents do authorize and empower you to take the answers to the interrogatories hereunto annexed of Charles E. Newell, to be used in a certain cause in equity, now pending in said court, wherein James Stevens is complainant, against Gladding & Proud, respondents.

And to this end, at certain days to be by you appointed for that purpose, to cause said witness or aforesaid to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATION.

writing, and to be subscribed by each of said witnesses in your presence. And the same so taken and subscribed to return, together with this commission and your doings herein enclosed, sealed and directed to the circuit court aforesaid, as soon as may be.

In testimony whereof we have caused the seal of the said circuit court to be hereunto annexed.

Witness the honorable Roger B. Taney, our chief justice at Providence, this ninth day of June, in the year of our Lord one thousand eight hundred and forty-nine.

JOHN T. PITMAN, Clerk.

N. B.—You shall not, except by the consent of the parties in writing, permit either party to attend at the taking of the depositions of either himself, or by any attorney or agent, nor to communicate by interrogatories or suggestions with the deponent whilst giving their deposition, or answer to the interrogatories annexed to this commission. And you shall take such deposition in a place separate and apart from all other persons, and permit no person to be present during such examination, except the deponent and yourself, and such disinterested person (if any) as you may think fit to appoint as a clerk, to assist you in reducing the deposition to writing. And you shall put the several interrogatories and cross interrogatories to the deponents in their order, and take the answer of the deponent to each, fully and clearly.

RHODE ISLAND DISTRICT, &c.

Clerk's office, circuit court, at Providence, June 13th, 1849.

Then personally appeared the above-named Joseph S. Pitman, and made oath that he would faithfully and impartially discharge his duties according to the best of his skill and understanding.

Before me, JOHN T. PITMAN, Clerk.

CIRCUIT COURT OF THE UNITED STATES,

Rhode Island District.

Interrogatories to be propounded to Charles E. Newell, of the city and county of Providence, district of Rhode Island, inhabit, James Stevens vs. Gladding & Proud, booksellers and stationers.

Did you or not purchase of Gladding & Proud, booksellers and stationers, in the city of Providence, district of Rhode Island, one of the maps of the State of Rhode Island, &c., published by Isaac H. Chapin, A. D. 1846? If yes, when, where, and at what price; can you show said map; have you any means of identifying said map?

JAMES STEVENS

Cross interrogatories waived.

TILLINGHAST & BRADLEY,

For Plaintiff.

To the honorable the circuit court of the United States, for the Rhode Island district.

Joseph S. Pitman, the within named commissioner, respectfully
pursue, that on the fourteenth day of June, A. D. 1849, Charles E.
Newell, within named, having been first duly summoned, appeared at
his office to give evidence in the cause in equity, now pending, in the
circuit court for the district aforesaid, wherein James Stevens is com-
plainant, and Cladding & Proud are respondents; and having been
duly sworn to testify the truth, the whole truth, and nothing but the
truth, gave his deposition hereto annexed, which was reduced to writ-
ing by me in his presence, and signed by him in my presence, no other
witness being present.

JOSEPH S. PITMAN, *Commissioner.*

Providence, June 14, 1849.

Commissioner's fees—

One deposition	- - -	\$2 00
Citation to witness	- - -	50

		\$2 50

I, Charles E. Newell, of lawful age, of the city and county of Pro-
vidence, and State of Rhode Island, being first cautioned and sworn,
on oath depose and say:

Interrogatory propounded by James Stevens.

Did you or not purchase of Cladding & Proud, booksellers and stu-
dioners, in the city of Providence, district of Rhode Island, one of the
maps of the State of Rhode Island, &c., published by Isaac H. Cady,
A. D. 1846? If yes, when, where, and at what price, can you show
said map; have you any means of identifying said map?

Answer. I did purchase of Cladding & Proud such map; it was the
latest edition of Stevens's map. I purchased it the first day of July,
1847, at their bookstore. I paid two dollars for it. I can show the
map. I have it in my office. I have a private mark upon the map
by which I can identify it.

CHARLES E. NEWELL.

Witness fees—One day's attendance, \$1 25.

Subscribed and sworn to this fourteenth day of June, A. D. 1849.

Before me,

JOSEPH S. PITMAN,
Commissioner.

And the cause having been continued to the present term, is now
called for hearing upon the bill, answer, and other pleadings in the
case, and is heard, and the following decree entered:

DECEMBER TERM, 1853.

This cause came on to be heard on the bill, answer, replication, depositions, and other papers in the case, and after the hearing it is ordered by the court that the following entry be made on the minutes in relation to the same:

"The court differ in opinion as to the effect of the sale of the copperplate, but agree that injunction cannot issue without a return of the money paid for the plate."

And afterwards at the same term, Mr. Stevens having the election to return the price of the plate or not, elected not to return the same, upon which the respondents move that the bill be dismissed, which is dismissed as follows:

"This cause having been heard on the bill, answer, and other pleadings therein, and the complainant being refused to return the price of the plate of the map in question as required by the court,

It is now on motion of the respondents, and by the consideration of the court, ordered, adjudged, and decreed, that the said bill be, and the same is hereby, dismissed with costs.

November term, A. D. 1849.

Ordered to be entered as the decree of the court.

JOHN T. PITMAN,

Clerk circuit court.

Such were the proceedings in the case up to the November term, A. D. 1853, when the following was filed in court:

Petition of appeal.

RHODE ISLAND DISTRICT, &c.

Circuit court of the United States, November term, A. D. 1853.
To the honorable circuit court of the United States, in and for the Rhode Island district.

Respectfully represents,

James Stevens, of the town and county of Newport, in the district of Rhode Island, that on the twenty-fourth day of November, A. D. 1849, a decree was made and pronounced by said court, in a certain cause in equity pending in said court, wherein your petitioner was complainant, and Royal Gladding and James D. Troup, of the city and county of Providence, in said Rhode Island, defendants, doing business under the firm of Gladding & Troup, were respondents, whereby said cause was ordered to be dismissed.

And said James Stevens is now desirous of and hereby causes an appeal from said decree to the Supreme Court of the United States, next to be helden at the city of Washington, in the District of Columbia, on the first Monday of December, A. D. 1853.

Wherefore he asks that said appeal be allowed under the circumstances.
(Signed) JAMES STEVENS.

November term, 3d day, 1853.

Ordered, that the appeal be allowed upon bond being filed with sufficient surety in the sum of two hundred dollars, to be approved by the clerk.

B. R. CURTIS,
Associate Justice, S. C. U. S.

Bond for costs.

RHODE ISLAND DISTRICT.

Know all men by these presents, that I, James Stevens, as principal, and Jonathan T. Almy, as surety, both of Newport, in said district, are held and firmly bound unto Royal Gladding and Isaac T. Proud, of the city and county of Providence, in said district, in the full and just sum of two hundred dollars, to the payment of which sum, unto the said Royal Gladding and Isaac T. Proud, their executors, and administrators, by these presents:

The condition of the above obligation is such, that whereas, the said James Stevens has appealed (in) a certain cause in equity wherein the said Stevens is complainant, and the said Gladding and Proud are respondents, from a decree rendered therein dismissing said bill at the November term, A. D. 1849, of said court to the Supreme Court of the United States, next to be holden at Washington, in the District of Columbia, on the first Monday of December next.

Now, therefore, if the said James Stevens shall prosecute his said appeal before the Supreme Court of the United States with effect, and shall well and truly pay all such costs and damages as shall be so judged for him to pay by the said Supreme Court, or by said circuit court, by reason of said appeal, then the before written obligation shall be void and of no effect, otherwise it shall remain in full force and effect.

Sealed with our seals, and dated the twenty-eighth day of
A. D. eighteen hundred and fifty-three.

JAMES STEVENS. [L. S.]
JONATHAN T. ALMY. [R. S.]

Signed, sealed, and delivered in presence of—

Joseph PITTMAN,
Charles Brownell.

Approved, November 29th, 1853.

J. T. PITTMAN, Clerk.

RHODE ISLAND DISTRICT, &c.

Clerk's office, circuit court, at Providence, November 30th, 1853.

I, John T. Pitman, clerk of said court for said district, do hereby certify, that the foregoing twenty-nine (though page 31) pages contain a

true transcript from the record of the case, James Stevens vs. Gladding & Proud, disposed of November term, 1849; and also of the petition for appeal and appeal bond, duly examined and compared.

In testimony whereof I have hereunto set my hand and the [SEAL.] seal of said circuit court, on the day and year above written.

JOHN T. PITMAN, Circuit

RHODE ISLAND DISTRICT, sc.

[U. S.] The President of the United States of America, to the marshal of said district, or to his deputy, greeting:

You are hereby required to make known to Royal Gladding and Isaac T. Proud, of the city and county of Providence, in the State of Rhode Island, now or late booksellers and stationers, doing business under the firm of Gladding & Proud, that in a certain cause in equity, disposed of at the November term, A. D. 1849, of this circuit court of the United States, within and for the Rhode Island district, wherein James Stevens, of the town and county of Newport, in said State of Rhode Island, was complainant, and the said Gladding & Proud were respondents. The said complainant has appealed from the decree of the said circuit court rendered against him, unto the Supreme Court of the United States, next to be helden at Washington, within and for the said United States, on the first Monday of December next, which appeal has been duly allowed.

And that they, the said Gladding & Proud, then and there be before the said Supreme Court, within thirty days after notice hereof, to hear the proceedings on the said appeal, if it shall seem expedient unto them, and further to do and receive what in the said Supreme Court shall be ordered, adjudged, and decreed in this behalf; and make due return of this citation with your doings thereon.

In witness whereof I have caused the seal of the said circuit court to be hereunto affixed, and have subscribed these presents, this thirtieth day of November, A. D. 1853.

JOHN PITMAN,

District judge U. S., Rhode Island district.

UNITED STATES OF AMERICA,

RHOE ISLAND DISTRICT, sc.

November 30th, 1853. Made service of the within by leaving a true and attested copy hereof at the last and usual place of abode of Royal Gladding and Isaac T. Proud.

CHARLES E. NEWELL,

Deputy U. S. marshal.

Fees—2 services	• • •	\$4 00
2 copies	• •	1 00
travel	• •	10

\$5 10